UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/672,435	09/28/2000	John Kenyon Gerken III	RAL9-2000-0034US1	8160

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EXAMINER
MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
3627	

DATE MAILED: 05/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _25 February 2004_.
2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
   closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-57_ is/are pending in the application.
   4a) Of the above claim(s) _46-57_ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) _1-8,11,15-30,33 and 37-45_ is/are rejected.
7) ☒ Claim(s) _9,10,12-14,31,32 and 34-36_ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a) ☐ All   b) ☐ Some * c) ☐ None of:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. _____.
    3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
       application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Appeal Brief

1.   In view of the appeal brief filed on February 25, 2004, PROSECUTION IS HEREBY

REOPENED. New grounds of rejection are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following

two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37

CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a

supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or

other evidence are permitted. See 37 CFR 1.193(b)(2).

It is noted that the after final amendment submitted on January 26, 2004 was not entered

as indicated in the Advisory Action submitted on February 18, 2004. Therefore, the Appendix of

the Appeal Brief does not accurately list the claims as currently pending. For example, claim 9

is listed in the Appendix as an independent claim. However, claim 9 is currently dependent from

claim 1.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1-5, 8, 11, 24-28, and 33 are rejected under 35 U.S.C. 103(a) as being

unpatentable over U.S. Patent No. 5,010,485 (hereinafter "Bigari") in view of U.S. Patent No.

6,327,573 (hereinafter "Walker").

In regards to independent **claim 1**, Bigari discloses a method of accelerating sales

transactions of customers in a retail store (see column 3, lines 12-15), comprising the acts of:

reading a customer payment card number (via card reader 24) at a customer checkout

accelerator; determining a preapproval amount for the sales transaction (see column 7, lines 21-

23); displaying the preapproval sales transaction amount to the customer on the checkout

accelerator for acceptance (via display 28, see column 7, lines 23-26); transmitting the

preapproval amount to an external card services system for approval (see column 7, lines 49-62);

and storing the approval amount at a point of sales terminal (via communications line 33) for use

in completing the sales transaction; **[claim 2]** transmitting the preapproval amount from the

customer checkout accelerator to a store controller (12, via transmitter/receiver 16); **[claim 3]**

placing an entry in a preapproval database (26) if the external card services system approves the

transaction amount; **[claim 4]** notifying a point of sales terminal of the approval amount (via

communication line 33 or voucher reader 34); **[claim 5]** determining if the payment card is one

or more of credit card (see charge card reader 24), debit card, a customer loyality card, an

electronic/Internet wallet, or an electronic gift certificate; **[claim 8]** manually entering a specific

preapproval amount by the customer (see column 7, lines 21-23); and **[claim 11]** printing a sales

transaction receipt and a credit or debit voucher (see column 8, lines 49-52).

In regards to independent **claim 24**; Bigari discloses a computer readable medium containing a computer program product for accelerating sales transactions of customers in a retails that is programmed to complete the steps of claim 1 as described above in detail. Bigari discloses the limitations of **claims 24-28 and 33** as described above in detail for similar claims 1-5, 8, and 11.

Regarding **claims 1 and 24**, Bigari fails to expressly disclose storing the preapproval amount in a preapproval cache at a point of sales terminal. After inputting the preapproval amount via voucher reader 34, Bigari is silent has to where or how the preapproval amount is stored in anticipation of processing by the point of sale terminal.

Walker teaches the use of a point of sale terminal that includes a processor (154) that further comprises cache memory that assists in executing software routines.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bigari with cache memory associated with the point of sale processor as taught by Walker, because providing cache for a processor allows the processor to operate more efficiently and at a higher speed because cache memory serves as a high-speed local memory source.

4.   Claims 6, 7, 29, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bigari in view of Walker as applied to claims 1-5, 8, 11, 24-28, and 33 above, and further in view of U.S. Patent No. 6,611,811 (hereinafter "Deaton").

In regards to **claims 6, 7, 29, and 30**, Bigari fails to explicitly disclose alternative methods of establishing a preapproval amount.

Deaton teaches that is was old and well known at the time of the invention to utilize

historical data to determine credit approval (as an example, see column 73).

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify Bigari/Walker with the alternative steps of determining preapproval

amounts taught by Deaton, because using historical data provides an accurate estimate of the

required preapproval amount, wherein reducing the chance of requesting time consuming

reauthorizations.

5.   Claims 15-23 and 37-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bigari in view of Walker as applied to claims 1-5, 8, 11, 24-28, and 33 above, and further in

view of U.S. Patent No. 6,098,879 (hereinafter "Terranova").

Bigari in combination with Walker fail to disclose a checkout accelerator displaying

promotional merchandise that can be added to the sales transaction, wherein some or all of the

promotional merchandise can be made available through a hyperlink to one or more Internet web

sites.

Terranova teaches the use of personal point of sale system that displays promotional

merchandise that can be added to the sales transaction via Internet hyperlinks (see column 10,

lines 60-63; see also column 9, lines 5-13). Additionally, Terranova teaches the use of

configuring the display using customer preferences (see column 1, lines 42-63; see also column

2, lines 29-41)

Regarding **claims 18, 23, 40, and 45**, the Examiner takes Official Notice that is old and

well known to track advertisements for billing vendors, because tracking vendor-based

advertisements allows the owner of the system to charge outside vendors for advertisements,

wherein helping to offset some of the expense of providing the system to the customer.

Allowable Subject Matter

6.   Claims 9, 10, 12-14, 31, 32, and 34-36 are objected to as being dependent upon a rejected

base claim, but would be allowable if rewritten in independent form including all of the

limitations of the base claim and any intervening claims.

Response to Arguments

7.   Appellant's arguments filed with the Appeal Brief on February 25, 2004 have been fully

considered but they are not fully persuasive. It is noted that Appellant's arguments overcome

some of the rejections, but new grounds of rejection were made.

On page 6, second paragraph, Appellant argues that Bigari does not disclose "storing the

approval amount in a preapproval cache" as recited in claim 1 and claim 24. After further

consideration, it is determined that processors do not inherently utilized cache memory. Some

processors do not include cache memory. However, it is obvious to utilize cache memory in

combination with a processor in a point of sale terminal as set forth above in the new grounds of

rejection (Bigari in view Walker). Cache memory allows the processor to operate more

efficiently.

On page 8, first pargraph, Appellant argues that Bigari does not disclose "the act of

transmitting the preapproval amount from the customer checkout accelerator to a store

controller" as recited in claim 2 and claim 25. Appellant argues that microprocessor (12) cannot

both be a store controller as well as within the customer checkout accelerator. The Examiner respectfully disagrees. Microprocessor (12) serves two functions. First, the microprocessor (12) serves to expedite customer checkout. Secondly, it serves as a store controller to control the actions of the verification and updating of authorized transactions.

On page 9, Appellant argues that Bigari fails to disclose "the act of printing a sales transaction receipt and a credit or debit voucher" as recited in claim 11 and claim 33. The Examiner respectfully disagrees. An updated transaction receipt is printed by Bigari (see column 10, lines 7-10).

On page 10, final paragraph, Appellant argues that the Examiner failed to submit any evidence for modifying Bigari to determine a preapproval amount that is based on an actual purchase history for the customer if the payment card is a customer loyalty card. A statement of motivation is cited above related to the combination of Bigari and Deaton. The motivation is taken from the knowledge of one of ordinary skill in the art at the time the invention was made based upon the cited references. As set forth above, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bigari/Walker with the alternative steps of determining preapproval amounts taught by Deaton, because using historical data provides an accurate estimate of the required preapproval amount, wherein reducing the chance of requesting time consuming reauthorizations.

On pages 13-24, Appellant argues the combination of Bigari and Trotta. Appellant's arguments are moot in view of the new grounds of rejection.

Conclusion

8.   Tarbox is cited of interest but not used in the rejections for disclosing a system and

method for processing customized advertisement selection and customized catalog shopping at a

point of sale terminal.

9.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The

examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding

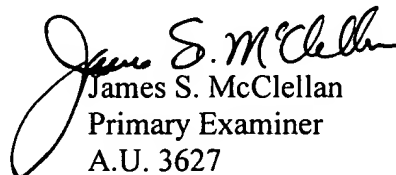should be directed to the receptionist whose telephone number is (703) 308-1113.

Any response to this action should be mailed to:

> Commissioner of Patent and Trademarks
> Washington D.C. 20231

or faxed to:

> (703) 872-9306 (Official communications) or
> (703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,

Arlington, VA, 7th floor receptionist.

James S. McClellan
Primary Examiner
A.U. 3627

jsm
May 14, 2004